

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

JAMES DIGGS, SR.,

Plaintiff,

-vs-

Case No: 1:07-cv-08035-GBD

NEW YORK MARINE TOWING,

Defendant.

\_\_\_\_\_/

ROBERTA E. ASHKIN (#115461515)

Local Counsel

580 Broadway, Ste. 906

New York, NY 10012

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**COMPLAINT**

NOW COMES Plaintiff, by and through counsel undersigned, Roberta E. Ashkin, complaining against Defendant as follows:

1. Jurisdiction and venue lie in this action, Defendant conducting business within this forum's boundaries.
2. Jurisdiction is founded under the Jones Act (46 USC 30104) for negligence, and under the General Maritime Law for unseaworthiness, maintenance, cure, and wages.
3. At all times material to issues herein Plaintiff served as an employee of Defendant serving as a crew member aboard its vessels, with all acts and/or omissions giving rise to this action occurring in the course of Plaintiff's employment in the service of his ship.

4. On or about May 19, 2007, Plaintiff was in the course of employment climbing off a barge when because of Defendant's failure to provide adequate and necessary and reasonable equipment, i.e., a seaworthy ladder, Plaintiff was injured with Defendant thereafter breaching its obligation to provide maintenance and cure aggravating the underlying condition.

5. Defendant's tortious acts aforesaid caused or contributed to Plaintiff's damages, **inter alia**, as follows:

- a. Pain and suffering, past future;
- b. Mortification, humiliation, fright shock and embarrassment;
- c. Loss of earnings and earning capacity;
- d. Hospital, pharmaceutical and other cure expenses;
- e. Aggravation of prior condition, if any there be;
- f. Inability to engage in social, recreational, and other pursuits previously enjoyed;
- g. Mental anguish;
- h. Found;
- i. Maintenance, cure, wages and/or attorney fees.

WHEREFORE, Plaintiff demands trial by jury and judgment against Defendant, together with interest, costs, attorney fees and expenses, all to be methodically adjusted upwards during the pendency of this cause.

/s/ Roberta E. Ashkin

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Dated: August 27, 2007

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SOUTHERN DISTRICT OF NEW YORK

JAMES DIGGS, SR.,

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DEMAND FOR TRIAL BY JURY

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NOW COMES Plaintiff by and through counsel undersigned, Roberta E. Ashkin, and hereby  
demands trial by jury in the above-referenced cause of action.

/s/ Roberta E. Ashkin

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ROBERTA E. ASHKIN (#115461515)

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Dated: August 27, 2007